

## **Housing Element Fact Sheet (Frequently Asked Questions)**

### **What is a housing element?**

The Housing Element is one of seven State-mandated elements of the Town's General Plan. State housing element law, enacted in 1969, mandates that local governments adequately plan to meet the existing and projected housing needs of all economic segments of the community. Therefore, the Danville Housing Element is required to contain policies and programs that encourage housing development for a variety of affordability levels by providing an adequate number of housing sites zoned at appropriate densities to accommodate the projected housing needs and affordability levels established by the State Department of Housing and Community Development (HCD) for each region.

### **Why does California law require housing elements?**

The underlying premise of housing element law is that, for the private market to adequately address housing needs and demand, local governments must adopt land use plans and regulatory systems which provide opportunities for - and do not unduly constrain - housing development. The objectives of State housing element law are to:

- (1) Increase the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, resulting in each jurisdiction receiving an allocation of units for low and very low income households.
- (2) Promote infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.
- (3) Promote an improved intra-regional relationship between jobs and housing.

### **What happens if a city does not have a complying housing element?**

There can be serious consequences to communities and their residents if the California Department of Housing and Community Development determines that a city or county has failed to comply with the State's Housing Element Law. Some of those repercussions can include:

1. Lawsuits from developers and from housing advocates. A number of Bay Area cities that have been successfully sued include Menlo Park, Corte Madera,

Pleasanton, Alameda, Benicia, Fremont, Berkeley, Napa County and Santa Rosa. Potential consequences of being sued include:

- a. Mandatory compliance - the court orders the community to bring the Housing Element into compliance, which limits community input.
  - b. Suspension of local control on building – the court may suspend a community’s authority to issue building permits or grant zoning changes.
  - c. Court approval of housing developments – the court may step in and approve housing projects, including large projects that may or may not be wanted by the local community.
  - d. Fees - If a jurisdiction loses or settles the case, it often must pay substantial attorney fees to the plaintiff’s attorneys in addition to the fees paid to its own attorneys. payment of attorney fees that usually exceed \$100,000.
2. If the Town fails to identify available adequate sites to accommodate its fair share assignment for the current planning period (557 units), it would be required to carry this assignment over to the next planning period. In other words, failure to comply means that each planning period’s assignment would then become cumulatively *additive*.
  3. Limited access to state funding for such community needs as economic development and transportation.

It’s important to keep in mind that since the law took effect in 1969, no jurisdiction in California has successfully challenged the authority of the state to mandate compliance with housing element law (see [California Housing Element Litigation History](#)).

{NOTE: Hyperlink to “California Housing Element Litigation History” PDF}

### **Who determines how many housing units are needed and how is the number calculated?**

The State Department of Housing and Community Development (HCD) determines the number of housing units necessary to meet housing demand within each region of the state every seven to eight years. The Council of Governments (COG) for each California region then assigns each city and county their “fair share” of these housing units through the Regional Housing Need Allocation (RHNA) process.

In 2014, HCD determined that the Bay Area must plan for 187,990 new housing units from 2014-2022. This determination is based on population projections produced by

the California Department of Finance (DOF), which also took into account the uncertainty regarding the economy and regional housing markets. For this cycle, HCD made an adjustment to account for abnormally high vacancies and unique market conditions due to prolonged recessionary conditions, high unemployment, and unprecedented foreclosures. As a result, the 2014-2022 planning cycle is lower than the 2007-2014 cycle, which was at 214,500 units.

### What is Danville's fair share allocation?

Danville's "fair share" of the Bay Area region's housing need for the 2014-2022 planning cycle is 557 units. Within the context of Contra Costa County, Danville's housing assignment represents 3% of the countywide assignment, while its population is 4% of the countywide total. Within the context of the five Tri-Valley cities, Danville's housing assignment represents 6% of the subregion's assignment, while its population is 13% of the subregional total.

Affordability Levels	SF Bay Area	CC County	Tri-Valley Cities	Danville		
% of County Median Income	Assigned Units	Assigned Units	Assigned Units	Assigned Units	% of CC County	% of Tri-Valley
Very Low (31-50%)	46,680	5,264	3,063	196	4%	6%
Low (51-80%)	28,940	3,086	1,701	111	4%	7%
Moderate (81-120%)	33,420	3,496	1,734	124	4%	7%
Above Moderate (120%)	78,950	8,784	2,557	126	1%	5%
<b>Total Units:</b>	<b>187,990</b>	<b>20,630</b>	<b>9,055</b>	<b>557</b>	<b>3%</b>	<b>6%</b>

CC County = Contra Costa County

Tri-Valley Cities = Cities of Livermore, Pleasanton, Dublin, San Ramon and Danville

It is important to note that state law does not require local governments to build new housing. A municipality must only provide adequate housing sites zoned at appropriate densities to accommodate the affordability levels shown above. The private market determines if any housing is actually built.

For this planning cycle, the Town has sufficient acreage of appropriately zoned sites to accommodate all units among the state-mandated affordability levels. Therefore, no new sites are required to be identified as a part of this Housing Element update.

### **Why does the law only require cities to zone for housing units, not build them?**

Housing element law is the state's primary method for encouraging private builders to increase housing supply, affordability and choice. The law recognizes that in order for the private sector to adequately address housing needs and demand, local governments must adopt land use plans and regulations that provide opportunities for and minimize constraints on the development of housing units. Local governments do this primarily through their zoning ordinances.

### **What does Danville need to do to comply with the State mandate?**

The "fair share" assignment does not require local governments, including Danville, to build any housing. Rather, it requires that the Town have enough land designated to enable such development to occur under market driven conditions. Because the Town designated sufficient sites as a part of the 2030 General Plan Update, and subsequently rezoned these sites consistent with its General Plan designation, Danville will be able to comply with the 2014-2022 "fair share" assignment.

### **How will the Danville Housing Element impact private property?**

The Danville Housing Element will meet a legal requirement placed on the Town by the State. Once properties are rezoned to meet those requirements, there is no corresponding requirement in State law that those sites have to be developed. Most likely, many of those sites will be developed at some point in the future through some other process. Each development must meet regulatory requirements of the Town, subject to the Town development standards, design guidelines, and environmental review requirements.

### **Why is it important for our community to have housing options?**

A lack of housing options stifles economic growth by creating an imbalance of jobs and housing in a geographic area. This also lengthens the typical work commute and exacerbates traffic problems, which in turn impacts the quality of life in the Tri-Valley.

### **Does higher density housing mean affordable housing?**

Land available for housing development is limited and land values vary from community to community. The Bay Area has comparatively high land values within the state and land values in Danville are high. The ability to develop high densities on land reduces the per-housing-unit cost and allows homes to be sold at levels that are more affordable than single family homes. Influences on housing prices include the size of the units, amenities offered, and proximity to other desirable land uses.

Sometimes higher density housing means luxury condominiums and sometimes it means homes that more moderate income families can buy. Even if land is listed in the housing element as potentially affordable, the land owner or developer could very well construct market rate housing.